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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In Re ACACIA MEDIA TECHNOLOGIES CORPORATION	Case No. C-05-01114 JW **DECLARATION OF DAVID S. BENYACAR IN SUPPORT OF ROUND 3 DEFENDANTS' CLAIM CONSTRUCTION BRIEF (PART I)**

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I, David S. Benyacar, hereby declare as follows:

1. I am a member of the law firm Kaye Scholer, LLP, counsel of record for defendant Time Warner Cable, Inc. I make this declaration from my own personal knowledge, and if called as a witness, I could and would testify competently hereto.

2. On May 8, 2006, the Round 3 defendants will be filing their "Round 3 Defendants' Claim Construction Brief (Part I)" in this courthouse.

3. The following exhibits, attached hereto, are true and correct copies of the original documents:

Exh. A: David Sarnoff Research Center Report (April 17, 1992)

Exh. B: Petition to Make Special ('992 patent prosecution history)

Exh. C: 12/10/91 Office Action ('992 patent prosecution history)

Exh. D: 12/20/91 Interview Summary ('992 Patent Prosecution History)

Exh. E: 10/1/91 Amendment ('992 Patent Prosecution History)

Exh. F: 12/26/91 Amendment ('992 Patent Prosecution History)

Exh. G: 2/5/92 Notice of Allowability ('992 Patent Prosecution History)

Exh. H: 4/2/92 Preliminary Amendment ('275 Patent Prosecution History)

Exh. I: 1/12/93 Amendment ('275 Patent Prosecution History)

Exh. J: June 7, 1999 Reply and Amendment under C.F.R. sec 1.111 ('720 patent prosecution history)

Exh. K: Plaintiff Acacia Media Technologies Corporation's Combined Opposition to: (1) Claim Construction Brief of AEBN, Inc.; *et al*; and (2) Claim Construction Brief of IWI and Offendale

Exh. L: July 12, 2004 *Markman* Order

Exh. M: Plaintiff's Disclosure of Asserted Claims and Preliminary Infringement Contentions to TWC, p. 10

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8th day of May, 2006, at New York, New York.

/s/ David. S. Benyacar

David S. Benyacar